

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554
JUN - 2 1997

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Federal Communications Commission
Office of Secretary

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Office of Secretary

In the Matter of)

Cellular Service and Other Commercial)
Mobile Radio Services in the Gulf)
of Mexico)

WT Docket No. 97-112

Amendment of Part 22 of the Commission's)
Rules to Provide for Filing and Processing)
of Applications for Unserved Areas in the)
Cellular Service and to Modify Other)
Cellular Rules)

CC Docket No. 90-6 JUN - 2 1997

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Federal Communications Commission
Office of Secretary

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COMMENTS OF PALMER WIRELESS, INC.

By its Attorney

Gerald S. McGowan
Terry J. Romine
Marjorie Giller Spivak

Lukas McGowan Nace & Gutierrez, Chartered
1111 Nineteenth Street, N.W., Suite 1200
Washington, D.C. 20036
(202) 857-3500

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SUMMARY

Palmer Wireless, Inc., on behalf of its affiliates which are non-wireline licensees and provide cellular service along the Gulf of Mexico ("Palmer"), submits its comments to the Second Further Notice of Proposed Rule Making proposing to re-structure the licensing of the Gulf of Mexico.

In its comments, Palmer supports the Commission's proposal to create an Exclusive Zone in which the current GMSA carriers may freely move transmitters and serve the areas within such Zone at will so long as an appropriate separation is adopted to prevent GMSA carriers from interfering with service of existing land-based cellular carriers and service to the coastal waters.

Palmer does not support the creation of a Coastal Zone because such proposal makes the licensing of the coastal waters more complicated than it needs to be and may delay deployment of critical service to watercraft operators. If the Commission decides that creation of a Coastal Zone is in the public interest, Palmer supports the definition of the Coastal Zone based on non-uniform coordinates. Alternatively, if the Commission determines to define the zone by nautical miles, Palmer submits that a 20 nautical mile zone should be created rather than a 12 nautical mile zone.

Finally, Palmer opposes the dismissal of the pending Phase II applications because requiring applicants to refile will be a waste of both the applicant's and the Commission's resources.

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COMMENTS OF PALMER WIRELESS, INC.

Palmer Wireless, Inc., on behalf of its affiliates, Panama City Cellular Telephone Company, Ltd., the non-wireline cellular licensee in the Panama City, FL MSA, Call Sign KNKA622, Market No. 283A; and FMT, Ltd., the non-wireline cellular licensee in the Ft. Myers, FL MSA, Call Sign KNKA598, Market No. 164A, submits its Comments in the above-captioned proceeding. Palmer¹ has three Phase II applications for unserved areas in the Gulf of Mexico Service Area ("GMSA") presently pending before the Commission.²

The instant Comments are filed in response to the Second Further Notice of Proposed Rule Making ("NPRM"), CC Docket No. 90-6, released April 16, 1997.

¹ For convenience, Palmer's affiliates licensed to serve the Panama City and Ft. Myers non-wireline cellular markets may be referred to herein individually or collectively as "Palmer."

² Panama City Cellular Telephone Company filed a Phase II cellular unserved area application on December 6, 1994 (File No. 02165-CL-CP-95) and on March 29, 1995 (File No. 04160-CL-CP-95). FMT, Ltd. filed a Phase II cellular unserved area application on December 6, 1994 (File No. 02163-CL-CP-95).

The NPRM

The goals stated by the Commission in the NPRM are to 1) reduce conflict between land and water-based carriers through revised regulation; 2) provide regulatory flexibility to accommodate transitory water-based transmitters; and 3) award licenses to carriers which most value them and will provide the best service to the public. NPRM at ¶ 2.

To achieve these goals, the Commission proposes to 1) divide the GMSA into an Exclusive Zone and a Coastal Zone 2) allow existing GMSA carriers freedom to move transmitters and serve at will within the Exclusive Zone and 3) dismiss pending applications for areas which comprise the new Coastal Zone and license the Coastal Zone under existing Phase II rules. NPRM at ¶ 3. Palmer will address each proposal below.

Palmer acknowledges the necessity of this proceeding to properly consider the GMSA issues, as directed by the Court of Appeals.³ In response, the Commission charts an aggressive course to calm the stormy waters of the Gulf. However, the Commission's proposal is more complicated than necessary and may result in new unwarranted conflicts.

Dividing the GMSA

The Commission proposes to divide the GMSA into an exclusive and coastal zone. The Commission justifies creation of a coastal zone as serving the public interest because of the high volume of cellular traffic in coastal waters and the need to ensure wide-spread reliable coverage along the shoreline. NPRM at 27. The Commission therefore believes that shoreline area needs to be treated differently than the rest of the GMSA. NPRM at 29. While Palmer agrees with the need to ensure reliable coverage to the shoreline, and agrees that the shoreline should be

³ In Petroleum Comms., Inc. v. FCC, 22 F.3d 1164 (DC Cir. 1994), the Court of Appeals directed the Commission to re-evaluate its GMSA licensing policies.

treated differently than the rest of the GMSA, Palmer supports only the creation of an Exclusive Zone.

Palmer urges the FCC to license any area outside the Exclusive Zone, once defined, under the existing unserved area rules. As will be explained below, Palmer regards creation of the Coastal Zone as an unnecessary licensing scheme, and one that has the potential to create new unwarranted conflict between existing licensees and result in delayed service to customers needing shoreline cellular service. Moreover, such a scheme will likely create undue burden on both the Commission and licensees by requiring those licensees who have time and again filed to serve the coastline, to refile new or perhaps duplicative filings. Additionally, contrary to the directive of the Budget Act,⁴ the Commission may create a licensing scheme which promotes mutually exclusive applications and further impedes deployment of service to coastal zone customers.

Alternatively, should the Commission desire to create a Coastal Zone, Palmer supports a coastal zone based on the non-uniform coordinates to ensure reliable service along the coastline. If non-uniform coordinates are not acceptable, Palmer recommends that the Coastal Zone extend approximately 20 nautical miles from the U.S. baseline rather than 12 nautical miles or there may a loss of reliable service to customers in the Coastal Zone.

⁴ See Omnibus Budget Reconciliation Act of 1993, Pub.L. No. 103-66, Title VI § 6002(b), 108 Stat. 312 (1993) ("Budget Act").

The Coastal Zone

The Commission tentatively concluded that coastal waters should be licensed and regulated differently than the remainder of the GMSA because of heavy boat traffic concentrated in coastal waters. NPRM at ¶29. Palmer agrees in theory but disagrees with the Commission's proposed licensing scheme.

Cellular service in the proposed Coastal Zone shares more characteristics with traditional land-based service: heavy traffic, mobile users, service from land-based transmitters. In fact, most of the cellular traffic in coastal waters is already generated by subscribers of land-based licensees. It therefore stands to reason that coastal areas should be regulated like land areas. As such, it should be subject to the existing unserved area rules.

Palmer suggests that creation of a new "Coastal Zone" unnecessarily complicates the licensing process, creates additional borders over which contours will inevitably extend and usurps the rights of existing licensees who have pending Phase II applications for unserved coastal areas. The public is better served by allowing all areas not within the Exclusive Zone to remain subject to the Commission's existing unserved area rules. This procedure will ensure the rapid deployment of service.⁵

The mere act of creating an Exclusive Zone will define a sort of "Coastal Zone" by default, but without added regulation. It is clear that applicants with long-pending applications and those presently serving these areas over the coastal waters value the area the most, and are

⁵ Many licensees along the coast of the Gulf have properly filed Phase II applications pending. The Commission should permit the applicant to amend the pending applications, if necessary, to bring them into compliance with the rules ultimately adopted. The applications could then be granted expeditiously. Otherwise, applicants will need to re-file applications, starting the application process all over again. The result is delay of service to the public.

already, or are poised to serve the public immediately. Such a licensing scheme clearly meets that Commission objectives in the rulemaking and will undoubtedly serve the public interest. Creation of a new Coastal Zone further delays implementation of service to the public.

Congress gave the Commission authority to implement competitive bidding procedures in those commercial services to promote the efficient, effective licensing of the spectrum. Competitive bidding is used when more than one application is filed to obtain a license for the same spectrum. The Commission, however, was not authorized to create competitive bidding situations. In fact, Congress also directed the Commission to adopt licensing procedures which avoided mutually exclusive applications. Palmer submits that the Commission's proposal to create a Coastal Zone and dismiss pending applications for service in such Zone does precisely what the Commission has been directed not to do -- create potential mutually exclusive applications.

The Exclusive Zone

The Commission tentatively concludes that a GMSA Exclusive Zone should be created within which existing Gulf carriers may relocate or add transmitters freely. NPRM at ¶ 28. Palmer does not object to this proposal. Palmer believes that the creation of an Exclusive Zone will accommodate the unique challenges of serving a large body of water while protecting land-based licensees from interference.

It is apparent to Palmer that offshore cellular service, with its mobile transmitting sites, relatively stationary subscribers and unavailability of land-based transmitting sites, is quite different from cellular service over land. Such differences justify unique regulatory treatment. Palmer has no objection to allowing GMSA carriers to add or relocate transmitters freely within

the Exclusive Zone, provided it is located far enough from shore so that there will be no potential or actual interference conflict.

The Appropriate Boundary

Even if a Coastal Zone is not officially designated as Palmer suggests it should not be above, an appropriate boundary must still be determined to separate the Exclusive Zone from the shoreline. Palmer supports usage of the non-uniform coordinates to determine the boundary. NPRM at 33. Such a boundary will reflect the realities of the areas where there clearly are no oil platforms existing or permitted off the coast as in Florida. In these areas there can be no service except from the land-based carrier. Moreover, the non-uniform coordinates provide for a large enough coverage area to ensure reliable service to the shoreline.

Based upon the non-uniform coordinates in Appendix A of the NPRM, Palmer conducted a test off the coast of its Ft. Myers, Florida cellular market to measure reliable service from its currently authorized land-based transmitters.⁶ Palmer determined that predictable service was attained at approximately 20-25 miles offshore. After approximately 25 miles from shore, because of co-channel interference and reflections off the water, service became inconsistent and unreliable.

At approximately 20 to 25 nautical miles, land-based transmitters in the various CGSA's surrounding the Gulf of Mexico become equal-distance from specific locations. In Palmer's test, the issue became not one of coverage, i.e. the propagation of the signal, but rather reliable service, i.e., the existence of interference preventing use of the service. Palmer found that the convergence of the signals from the land-based transmitters, in various markets along the coast, resulted in no usable service. Nor could Palmer identify which land-based transmitters were

⁶ See Affidavit of Brian Thacker attached as Attachment A hereto.

causing the interference. It also appeared that the interference was produced not solely from sites on the shoreline, but also from inland transmitters.

It is clear to Palmer that the boundary also must take into account the nature of land-based cell sites, including environmental characteristics and zoning issues in beach communities. In most cases, land based cells in beach communities must penetrate concrete condominiums and dense vegetation on the barrier islands to serve the shoreline. Moreover, as local communities and counties become more aggressive in regulating the placement of transmitters, the incumbent land-based licensees with existing cell sites may be the only providers who are in the position to expand their contours over coastal areas of the Gulf. Case in point, Palmer experienced a three-year delay due to local permitting for its Sanibel cell site on Sanibel Island, Florida. Coastal land areas commonly harbor sensitive environmental habitats, as was the case on Sanibel Island. Moreover, a number of the barrier islands are uninhabited and have no means of access other than by watercraft. Even if environmental issues are resolved, the resources necessary to establish a site on such an island may make such sites commercially infeasible. However, service can easily be provided by the land-based carriers assuming extensions into the Gulf are permitted.

Reliable service is the most important factor in determining the boundary. Palmer can substantiate the tremendous need for reliable cellular service to water craft -- not merely for convenience but for safety purposes as well. In its Ft. Myers, FL cellular market, Palmer recorded 3,818 cellular calls to the star number⁷, *CG (US Coast Guard); 1,648 cellular calls to *FMP (Florida Marine Patrol); and 1,398 cellular calls to *TOW (Sea Tow, a commercial

⁷ Star numbers are similar to speed dial numbers, but also suggest the destination of the call in the number dialed.

towing service for boats)⁸ since January of 1995. In Panama City, Palmer recorded 3,507 cellular calls to *FMP (Florida Marine Patrol) over the same time period. This data suggests that huge numbers of boaters are already relying upon cellular service provided by land-based carriers to ensure safety on the water.

The Commission requested data regarding numbers and types of boats which travel the coastal waters, and distances traveled from shore. In Lee County, FL, there are 42,587 registered boaters, and in Bay County, FL, there are 19,000 registered boaters.⁹ The licensing bureau does not distinguish between boaters who travel intracoastal waters versus off shore coastal waters. Indeed, the reality appears to be that most of these boaters travel both waters. In our experience, it is difficult to locate statistics differentiating between boat traffic which travels intracoastal waters versus coastal waters.¹⁰

Typically, boaters which are using cellular phone service are smaller boats not equipped with ship-to-shore radios or UHF radios. Nor generally are these boats of sufficient size to go further off the coast than 20 land miles. For example, a number of boaters will fish off the reefs approximately 19 miles from Sanibel Island. Cellular service currently is available off these reefs from land-based transmitters.

⁸ While conducting the tests in the Gulf, Palmer's staff developed motor difficulties and used the cellular service to obtain help to be towed back to shore. Without the availability of the cellular service, assistance may have been delayed for a more significant time period than experienced in the situation. See Attachment A.

⁹ The Ft. Myers MSA is comprised of Lee County, FL. The Panama City MSA is comprised on Bay County, FL. Statistics supplied by the respective county licensing bureaus for the year 1996.

¹⁰ Palmer was surprised by the lack of statistics or studies available. Palmer contacted sources such as the Florida Marine Patrol, U.S. Coast Guard, County Parks and Recreation Office, County Marine Sciences Office, Southwest Florida Marine Trades Association, and local Chambers of Commerce.

Alternatively, should the Commission desire to define the zone by nautical miles, based upon the results of Palmer's Test, Palmer believes a 12 nautical mile wide separation of the Exclusive Zone from the shoreline is insufficient to ensure reliable cellular service to the majority of boaters from land-based transmitters. Palmer found that reliable cellular service can be predicted along the coastline for 20-25 nautical miles. Palmer believes that use of the 12 nautical mile measure for the Exclusive Zone border will leave many boaters unserved.

As discussed above, the tests which Palmer conducted demonstrated that reliable service is currently being provided in an area approximately 20 nautical miles from shore. Inasmuch as Florida does not permit off-shore drilling, should the Commission adopt a 12 nautical mile coastal zone, a large amount of water utilized by "coastal" watercrafts may be left unserved as it is unlikely that the Exclusive Zone licensees will provide service. Accordingly, Palmer would urge the Commission to adopt a 20 nautical mile zone rather than a 12 nautical mile zone.

Roaming

The Commission requests comment on whether it should consider the higher roaming fees charged resulting from water-based transmitters in determining the breadth of the Coastal Zone. NPRM at ¶ 34. Palmer agrees that the higher fees should indeed be considered, particularly because subscriber confusion and dissatisfaction will likely result. The Commission already receives numerous informal complaints from subscribers who have trouble understanding the concept of roaming on land. Indeed, carriers often issue courtesy credits to confused subscribers who unwittingly wandered into high price roaming areas. To introduce a sliver of coastal waters within which subscribers will have little ability to predict the cost of their calls will only discourage use, and may result in land-based carriers effectively subsidizing, through subscriber roaming credits, the roaming revenues of water-based carriers.

Treatment of Incumbents

Palmer endorses the Commission's proposal to incorporate all current extension areas over the Gulf of Mexico into the providing carrier's CGSA. NPRM at ¶ 36. Indeed, this is consistent with the current unserved area rules, which permits extending licensees to claim the territory left uncovered by the incumbent. Accomplishing these "claims" through this proceeding is efficient. The public is accustomed to the existing service areas, and to reduce the existing service areas is contrary to the public interest.¹¹

Palmer recommends that not only extensions previously granted should be incorporated, but so should extensions currently operating pursuant to Special Temporary Authority ("STA"). Palmer presently operates its Mexico Beach cell site in the Panama City MSA pursuant to STA. STA has been the only regulatory means by which Palmer could adequately serve the Mexico Beach land area. The record supporting the grant of that STA is replete with first hand accounts of the devastating effects of Hurricane Opal in 1995 upon Panama City, as well as descriptions from public safety officials and citizens who relied upon the cellular service in Panama City and from the Mexico Beach cell site in Opal's aftermath. See Attachment B, letters filed in support of the Mexico Beach STA. The coastline along the Gulf of Mexico is especially susceptible to natural disaster such as hurricanes, and there simply can be no justification for eliminating or reducing potentially life-saving services such as cellular. Given the enormous effort required to obtain local permitting for new cell sites along coastal areas, it is unlikely that anyone other than existing service providers on land could duplicate such coverage. Through the STA process, the Commission has already found the service to be in the public interest and already

¹¹ A "pull back of service" as the Commission suggests, could have life threatening repercussions especially in areas where boaters have relied upon cellular service and suddenly lose ability to make calls.

considered objecting opinions; therefore, administrative efficiency would be best served by incorporating STA areas into the provider's CGSA.

Propagation Formulas

Palmer opposes the adoption of the proposed "hybrid" formula. NPRM at ¶ 38. Application of a water formula to a transmitter which is situated on land, even though resulting in an extension over water, would not produce reliable predicted contours. Instead, Palmer proposes that land-based transmitters use the land-based formula and water-based transmitters use the water-based formula. Thus, the actual location of the transmitter, not the land or water classification of the licensee¹², should dictate the formula. Palmer's proposal treats all carriers equally, and distinguishes between formulas based upon the type of the actual transmitter site.

Transmitters, whether land-based or water-based in the cellular service, provide propagate by line of sight. Thus, a water-based transmitter propagation does not account for terrain or man-made structures. The line of sight is the horizon. Conversely, land-based transmitters, even if providing coverage over water, must contend (especially in the Florida coastline areas) with high-rise concrete condominiums which rim the shoreline, shoreline vegetation, and barrier islands with dense vegetation, to provide a reliable signal to the water areas.

Forcing a licensee with land-based transmitters to calculate reliable service using a water-based formula will result in less reliable service to the consumer and may increase the number of cell sites necessary to serve the area. As noted previously, with the growing community

¹² Palmer suggests that the Commission take all steps to avoid a situation in which a licensee may have to dual license one cell site to serve land and water area, using two different propagation formulas.

sensitivity and opposition to new antenna sites, additional cell sites may not be feasible which may result in a loss of reliable service which is vital to boating safety.

Additionally, if a hybrid formula was adopted, the Commission would need to address which transmitters would be required to use the hybrid formula. How far inland must a transmitter be before the land formula is applied? How large of an extension over water would require the water-based formula? Would the Commission have licensees simultaneously use two different formulas to represent the coverage contour of a single cell site covering both land and water? Palmer does not support the notion of case-by case determinations due to the delay which will likely result.

Placement of Transmitters

To the extent that GMSA carriers would propose serving the Exclusive Zone from a land-based transmitter, Palmer opposes removal of the land-based transmitter prohibition for GMSA carriers. NPRM at ¶ 40. Palmer further cautions the Commission that creation of the Coastal Zone, and its plan to license the Coastal Zone through the Phase II process, aggravates the zoning and permitting problems already experienced by the land-based licensees along the coastline. Creation of the Coastal Zone and permitting the Coastal Zone to be served from land theoretically could deluge the local markets with additional tower site seekers. However, in all practicality, Palmer expects that few applicants, other than existing land-based licensees, will ever be able to serve the Coastal Zone from land. SAB extension rules and local permitting restrictions render removal of the land-based prohibition a hollow victory for any prospective Coastal Zone licensee. Palmer believes that such authorization is unlikely to produce real benefit.

Mutually Exclusive Applications

Palmer opposes the Commission proposal to dismiss all pending Phase II unserved area applications which cover the proposed Coastal Zone. NPRM at ¶¶ 41 and 53. Palmer has already filed some of its pending applications twice¹³, to refile for the third time is simply ludicrous and wasteful of both Palmer and the Commission's resources.

Palmer suggests that the Commission permit applicants to amend their pending applications, if necessary, to bring them into compliance with the rules ultimately adopted. To make applicants refile is not an efficient manner to license the Coastal Zone area. The parties with applications on file have the ability or are currently serving the coastal waterways and shoreline of the Gulf. The Commission has provided the opportunity for those parties which wished to serve the area to file applications. Re-opening the filing windows increases the likelihood of speculative applications being filed, which the Commission has attempted to guard against in other services and other proceedings.¹⁴ Moreover, re-opening the filing window will further delay service to these areas.

Traditionally, the Commission has dismissed pending applications where the nature of the service to be provided is dramatically altered. In this case, nature of service is unchanged,

¹³ Following expiration of PetroCom's five year fill-in period, PCCTC filed a Phase 2 application to provide improved service to the coastal regions of its MSA. This application was also dismissed after the Commission accepted defective Phase 1 applications proposing extensions into the GMSA. Upon release of the public notice dismissing the defective Phase 1 applications. PCCTC filed a Phase 2 application, along with 11 other applicants. All of these applications have been petitioned and remain pending.

¹⁴ See Second Report and Order and Further Notice of Proposed Rulemaking (FCC 97-59) WT Docket No. 96-18, 12 FCC Rcd 2732 (1997).

although the FCC may apply distinct geographic requirements.¹⁵ Moreover, the applications pending before the Commission may be quickly processed and would assure service to the public in a more expedited manner than requiring re-filing of applications which may result in competitive bidding. Section 309(j)(2) of the Communications Act of 1934, as amended, (the "Act") sets forth when the Commission may use an auction for licensing. The Commission must determine that (1) the spectrum to be licensed will involve service being provided for compensation by subscribers to the licensee and (2) that the auction will promote the objectives described in Section 309(j)(3) of the Act. Those objectives are: (a) the development and rapid deployment of new technologies, products and services for the benefit of the public, including those residing in rural areas, without administrative or judicial delays; (b) the promotion of economic opportunity and competition and ensuring that new and innovative technologies are readily accessible to the American people by avoiding excessive concentration of licenses and be disseminating licenses among a wide variety of licenses; (c) the recovery for the public of a portion of the value of the spectrum made available for public use and avoidance of unjust enrichment; and (d) the efficient and intensive use of the electromagnetic spectrum.

Palmer contends that re-opening a filing window to encourage competitive bidding will not promote the majority of the objectives of Section 309(j)(3). The applications which are currently on file with the Commission already reflect those persons which are best positioned to provide immediate service to the public. Dismissing the applications and requiring the re-filing of similar, if not identical applications, results in administrative delay of the service and is needless. Further, as discussed below, the Commission is better served in promoting

¹⁵ See Third Report and Order (FCC 97-57), PR Docket No. 89-552, 12 FCC Rcd ____ 1997. Report and Order (FCC 95-230), MM Docket No. 94-131, 10 FCC Rcd 9589 (1995).

economic opportunities and competition by adopting rules for PCS, SMR and other mobile services to serve the Gulf of Mexico similar to those adopted for cellular. Palmer submits that the Commission will delay deployment of service to the coastal waters if it dismisses the applications now on file for service to these areas.

Operational Requirements Within the Coastal Zone

Palmer believes the existing unserved area rules will best accommodate service to coastal areas within the Gulf of Mexico. However, assuming the Commission adopts its Coastal Zone proposal, Palmer has no objection to the Commission's proposed construction requirements, CGSA boundaries and contour extensions. NPRM at ¶¶42-45.

Extensions into the GMSA Exclusive Zone

Palmer supports application of the existing contour extension rules to incursions into either the GMSA Exclusive or Coastal Zones, if adopted. NPRM at ¶50. As discussed above, however, Palmer believes the Exclusive Zone must be much farther off shore. Land-based service to coastal traffic must be insured, even in areas adjacent to Exclusive Zone CGSA where contour extensions will presumably be denied. Greater separation from the shore is needed, particularly in light of the Commission's proposal allowing GMSA Exclusive Zone carriers *unrestricted* rights to contract away territory. NPRM at ¶51. Since GMSA carriers will have no obligation to serve all areas within the Exclusive Zone, it is highly probable that extensions may be denied in favor of contracting away territory for profit. Such practice is likely to raise costs to subscribers or result in no available service to the customer at any cost.

Other CMRS in the GMSA

The Commission asks whether it should license the Gulf of Mexico to other Commercial Mobile Radio Services, such as PCS, in a manner similar to cellular. NPRM at ¶¶58-63. Palmer supports the Commission's licensing competitors to cellular in the Gulf of Mexico. However, particularly with respect to cellular and PCS, each service must be regulated in a like manner. In the absence of similar PCS licensing in the GMSA, PCS will enjoy a substantial regulatory advantage over cellular. Absent PCS regulation, PCS carriers are able to extend over the GMSA areas at will, while cellular providers are disadvantaged by SAB extension rules. Moreover, if the Commission's Coastal Zone proposal is adopted, the presence of multiple cellular licensees on the same frequency block within the same area, some of which may charge substantially higher roaming rates, may render cellular the less attractive choice for subscribers who need service in coastal waters. Ultimately, the marketplace will determine whether, and which, areas are needy of service. Palmer, therefore, encourages the Commission to regulate PCS and other mobile service to the Gulf of Mexico similarly to cellular.

Conclusion

Palmer concurs with the Commission's proposal to create an Exclusive Zone in the Gulf of Mexico in the manner set forth in these Comments, although with greater separation from the shoreline. Palmer asserts that creation of a Coastal Zone is unnecessary and will result in delay in the deployment of reliable service to the waters outside the Exclusive Zone. Watercraft users today have service which is used to ensure the safety of the passengers and crew of these crafts, the majority of which are pleasure boaters. That service should not be interrupted.

Should the Commission go forward with the creation of the Coastal Zone, Palmer encourages the Commission to adopt its proposed non-uniform boundaries. As no off-shore

drilling is permitted off the coast of Florida, it is likely that areas where boaters frequent, such as off-shore reefs outside the 12 mile zone, will not receive reliable service from the Exclusive Zone licensees. Palmer discourages the Commission from setting a 12 nautical mile boundary for the Coastal Zone. Presently, cellular customers are being served to a 20 nautical mile limit. After approximately 20 nautical miles, reliable service from land-based transmitters is not achievable because of interference of cell sites around the perimeter of the Gulf. Palmer therefore suggests a 20 nautical mile boundary if the non-uniform coordinates are not adopted.

Respectfully Submitted,

PALMER WIRELESS, INC.

By: _____

Gerald S. McGowan
Terry J. Romine
Marjorie Giller Spivak

Its Attorney

Lukas McGowan Nace & Gutierrez, Chartered
1111 Nineteenth Street, N.W., Suite 1200
Washington, D.C. 20036
(202) 857-3500

Date: June 2, 1997

Palmer Wireless, Inc.
WT Docket No. 97-112
Comments
Attachment A

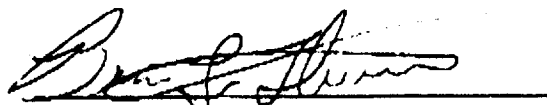
AFFIDAVIT OF BRIAN THACKER

AFFIDAVIT

I, Brian Thacker, the outside plant manager for FMT, LTD (an affiliate of Palmer Wireless, Inc.), do hereby certify that the following information is true and correct to the best of my knowledge:

1. I am employed as the outside plant manager for FMT, LTD, which is the non-wireline cellular licensee in the Ft. Myers, FL MSA;
2. My duties as the outside plant manager include overseeing the construction, engineering and maintenance of the Ft. Myers cellular system and the system performance and evaluation;
3. I have been employed with the company for 8 years and have been the outside plant manager since 1990;
4. On May 21, 1997, I initiated an evaluation test of several points out in the Gulf of Mexico from Ft. Myers;
5. For this evaluation, I used a COMARCO NES 250, which is an evaluation unit to test cell site operation. The unit is able to receive signals and determine the signal strength, audio quality, and time delay for digital signals. The unit has GPS installed in it. Thus, I was able to determine where I was when I conducting the evaluation;
6. I used a Grady White 226 Seafarer as transportation to the various points and was alone;
7. I drove perpendicular from Ft. Myers to 5 of 10 designated points (which I understand are the non-uniform coordinates proposed by the FCC in its Notice of Proposed Rule Making in licensing the Gulf of Mexico). I was unable to visit each point as the seas were very rough on the 21st;
8. At the 5 designated points, which were approximately 40 nautical miles from the shoreline, I found that there was no cellular service which was usable. The signal quality was too weak. My equipment permitted me to measure signal strength to -113 db. At the designated points, the signals were bouncing in and out from random sites, some even being received from Tampa.
9. I had a 3 db gain antenna which I could use to establish calls. At the designated points, I could sporadically establish a call, but could not hold it because of the interfering signals from a number of carriers being received.

10. During the trip out to the non-uniform coordinates, I watched my equipment and determined that between 20-25 nautical miles from shore, I continued to received reliable service. After 30 nautical miles, I no longer had usable service. I define "reliable service" as signal strength of -90 db and better for portable coverage.
11. In addition to the designated points, I also conducted an evaluation from Edison Reef which is a popular fishing spot for Ft. Myers residents and visitors. It is approximately 19 nautical miles from the shoreline in the Gulf. From the reef, you are unable to see land. The service at this spot from the land-based transmitters was not good, but it was usable. Due to the rough seas, there only was one other boat at the reef;
12. On my return from evaluation, the drive shaft of the boat I was using broke approximately 2 miles from the Ft. Myers Beach channel. I had to call for a tow to shore from Boat U.S. Towing. I initially tried to contact Boat U.S. Towing using the VHF ship-to-shore radio on the boat, but due to a lot of traffic on the channels, I couldn't get a channel immediately. Rather than waiting for a VHF channel, I used my cellular phone to call Boat U.S. Towing to obtain assistance. Using the cellular phone was more convenient and quicker that the VHF radio. Even with the faster contact, it took approximately 1-1/2 hours before I was towed to shore. I am unsure how long I would have been stranded if I had to have waited for the VHF channel to make the call.


Brian Thacker

Date: June 2, 1997

Palmer Wireless, Inc.
WT Docket No. 97-112
Comments
Attachment B

LETTERS OF SUPPORT
MEXICO BEACH CELL SITE (STA)

LETTERS OF SUPPORT